

Employee Complaint Implementing Procedures

Administrative Review Procedures AM 111

Eligibility

Regular full and part-time non-management employees of the University of California are eligible to use this Administrative Review process under Laboratory policy AM 111. Short and limited-term, causal, affiliates and contractors are not eligible to file complaints under AM 111. For purposes of this complaint policy and procedures, Laboratory management employees are listed at Table 200.VIII Management Positions.

Laboratory management employees covered by the UC Executive Program serve at the pleasure of the Laboratory Director. Conditions and actions affecting an Executive Program member's employment are expected to be discussed between the Executive Program member and the Laboratory Director. If the Executive Program member's concerns cannot be resolved through such discussions, the member may submit them in writing to the University's Office of the President. The Office of the President shall then take such action as determined appropriate.

Laboratory management employees NOT covered by the UC Executive Program serve at the pleasure of their immediate supervisor and the removal from the management position is not reviewable under AM 111. However, if the change in appointment involves a termination of employment, an allegation of discrimination, or medical separation, the manager may, after conclusion of the review by the manager's immediate supervisor, request in writing that the Laboratory Director appoint an Independent Party Reviewer as described in AM 111, Administrative Review.

Scope

Issues eligible for administrative review are:

- ▶ Non-selection for transfer or promotion;
- ▶ Position classification;
- ▶ Salary increase or other salary action and/or decisions; and
- ▶ Written Counseling

The written administrative review must describe the specific actions that are requested for review, any provisions of Laboratory policies and procedures alleged to

be improperly applied, the manner in which they were improperly applied, how the employee was adversely affected, and the remedy requested. Informal resolution of an administrative review may be agreed to by the parties at any stage.

Time Frame

The written request for a formal review must be received by Employee Relations (HR-ER) within thirty (30) calendar days following the date on which the employee knew or could reasonably have been expected to have known of the event or action that resulted in the complaint or within thirty (30) calendar days from the date of the event or action, whichever occurs first.

Representation

Any party may be self-represented or represented by another person at any stage of an administrative review. A party intending to be represented shall notify HR-ER immediately of the name and address of the representative. HR-ER shall provide notice of such representation to the other party. The Laboratory will not pay the costs, expenses, or legal fees of the employee unless otherwise set forth in the final decision of the Laboratory Director.

Conflict of Interest

A conflict of interest is anyone having a real or perceived personal, professional, business or financial relationship with either party that may influence the hearing authorities decision.

Fees

There are no administrative costs to employees for the Administrative Review process.

Remedies

If the management action reviewed is determined by the Director to be in violation of Laboratory policies and procedures or if the action is determined not to be reasonable under the circumstances, the remedy shall not exceed restoring the employee's pay, benefits, or rights lost as a result of the action, less any income earned from any other employment.

Procedures

The employee should meet with HR-ER to discuss reviewable issues. The employee completes and submits an Employee AM 111 Complaint form. HR-ER reviews the complaint to determine whether the complaint is timely and whether it qualifies for review. An employee may appeal the HR-ER decision to the DHR within 5 calendar days from the date of notice of HR-ER's decision.

If the complaint is accepted, HR-ER will forward the complaint to the supervisor or

manager (respondent) responsible for the action for review and response. The respondent submits the response to HR-ER within 15 calendar days of receipt of the complaint. HR-ER forwards the response to the employee for the employee's decision to withdraw the complaint or proceed to the next level of the review. The employee must inform HR-ER of his or her decision within 5 calendar days; otherwise the employee's failure to respond within the time frame will result in the complaint being closed by HR-ER. If the respondent fails to submit the response within the designated time frame, HR-ER may consider legitimate requests for extensions or forward the complaint to the next step of review.

Independent Party Reviewer

Step 1: If the employee requests to proceed to the next level of review, HR-ER will select an Independent Party Reviewer (IPR). The IPR may not be an employee of the same organization as the parties and may not have a conflict of interest with either party.

Step 2: The IPR will examine the issues under review, the positions of both parties, the facts of the case, and compliance with or violation of an AM policy, practice, or directive. The IPR shall determine the facts based on whatever sources the IPR deems pertinent and reliable. The IPR shall interview concerned parties individually and may disclose to both parties information which is relevant and material to the issues and shall provide the opportunity for the parties to offer rebuttal information.

Step 3: The IPR will prepare a report within thirty (30) calendar days of appointment. This report shall include a brief description of each incident or management action under review; each issue under review; the position of the parties; the findings of fact, conclusions, policy violations, if any; and a recommendation for resolutions of each of the issues under review (findings of fact shall be supported by the evidence and recommendations shall be supported by the findings). The report must be comprehensive and must provide sufficient information so that the Director can use it as a basis for a decision and for determining any appropriate remedies. HR-ER will review the report for completeness prior to forwarding it to the Director. HR-ER submits the completed report to the Director.

Step 4: The recommendation of the IPR shall either be accepted, rejected, or modified by the Director within ten (10) calendar days of receipt of the IPR report. The decision of the Director is final and shall be forwarded to HR-ER for implementation and appropriate action. HR-ER will notify the parties of the Director's decision. This concludes the Administrative Review process.

